

MONTANA LEGISLATIVE HISTORY

Chapter 35 19 83

Bill H 127 S _____ Original bill & history C

H. Committee on Agriculture Livestock & Irrigation S. Committee on Agriculture Livestock & Irrigation

Hearing Date(s) Jan 17 ☒ C

Hearing Date(s) Feb 02 ☒ C

Jan 21 ☒ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

Feb 07 ☒ C

Date Out Jan 21 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

HOUSE BILL 127. REP. TED NEUMAN, District 33, Cascade, testified as sponsor of the bill, which would reduce the required number of hours from 72 to 24 for notification of an owner, when a person takes possession of trespassing livestock. He requested the Committee strike language on page 2, lines 3-5 of the bill since it would be difficult to apply in most instances.

PROPONENTS

MR. LES GRAHAM, Department of Livestock said the bill is not intended to include an animal which strays onto another's property, but only those impounded for causing damage which might result in civil action.

MRS. JO BRUNNER, Women Involved in Farm Economics, stated her support of the bill and said it would be beneficial to livestock producers and is a necessary piece of legislation.

MR. MONS TIEGEN, Montana Stockgrowers and Cowbellies Associations, stated his support of the bill.

MR. PAT UNDERWOOD, Montana Farm Bureau stated his support of the bill.

OPPONENTS

There were no opponents of the bill.

QUESTIONS

There were no questions from the Committee.

IN CLOSING, Rep. Neuman, reiterated his request that the Committee strike language on page 2, lines 3-5 of the bill.

CHAIRMAN JACOBSEN advised the Committee House Bill 159 would be heard January 19, 1983 and asked that House Bills 85 and 159 receive committee action together since they are interrelated.

EXECUTIVE SESSION

REP. HOLLIDAY moved House Bill 111 Do Pass. Rep. Koehnke seconded the motion, which was unanimously approved by the Committee.

Agriculture Committee Minutes
January 21, 1983
Page 3

REP. BENGSTON said she was concerned with the cost of research involved in grant requests. Chairman Jacobsen explained testimony from the hearing in response.

REP. KOEHNKE told the Committee he was concerned with services in all agencies going to user fees.

REP. SPEATH told the Committee in this instance, the livestock industry has not been charged, only those making inquiries which require research, such as students, historians or the curious.

REP. HANSON seconded the motion made by Rep. Spaeth that the bill Do Pass. The bill was given unanimous committee approval.

HOUSE BILL 127. REP. HOLLIDAY moved the bill Do Pass and then moved the proposed amendments to the bill be approved. Rep. Schultz seconded the motion.

REP. SPAETH said the title would have to be amended, with which Legislative Council Attorney John MacMaster agreed.

REP. HOLLIDAY restated her motion to include the title. The motion was seconded by Rep. Schultz and unanimously approved by the Committee.

REP. HOLLIDAY moved the bill Do Pass as Amended. Rep. Bengston seconded the motion, which was unanimously approved.

The meeting was adjourned at 1:10pm.


REP. GLENN JACOBSEN, CHAIRMAN


Joann T. Gibson, Secretary

STANDING COMMITTEE REPORT

JANUARY 21

19 93

MR. **SPEAKER:**

We, your committee on **AGRICULTURE**

having had under consideration **HOUSE** Bill No. **127**

First reading copy (white)
Color

A BILL FOR AN ACT ENTITLED: "AN ACT REDUCING THE PERIOD OF
TIME IN WHICH A PERSON TAKING POSSESSION OF TRESPASSING
LIVESTOCK MUST GIVE NOTICE TO THE OWNER; AMENDING SECTION
81-4-217, MCA."

Respectfully Report as follows: That **HOUSE** Bill No. **127**

(1) Amend title

Title, lines 7 through 8.

Following: "OWNER;"

Insert: "DELETING A REQUIREMENT THAT NOTICE BE POSTED
WHERE THE ANIMAL WAS TAKEN;"

(2) Strike material only

1. Page 2, line 3 through 5

Following: "held?"

Strike: the remainder of line 3 and all of lines
4 and 5 in their entirety

AND AS AMENDED

DO PASS


REP. GLENN JACOBSEN

Chairman.

1 *Irisham* ~~House~~ BILL NO. 127
 2 INTRODUCED BY *Neuman Switzer, Alby, Sammler*
 3 *Vinner* BY REQUEST OF THE DEPARTMENT OF LIVESTOCK
 4 *Ellis, Thigt* *Hollings*

5 A BILL FOR AN ACT ENTITLED: "AN ACT REDUCING THE PERIOD OF
 6 TIME IN WHICH A PERSON TAKING POSSESSION OF TRESPASSING
 7 LIVESTOCK MUST GIVE NOTICE TO THE OWNER; AMENDING SECTION
 8 81-4-217, MCA."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 81-4-217, MCA, is amended to read:

12 "81-4-217. Retention of trespassing stock. (1) If an
 13 animal breaks into an enclosure surrounded by a legal fence
 14 or is wrongfully on the premises of another, the owner or
 15 occupant of the enclosure or premises may take into his
 16 possession the trespassing animal and keep the animal until
 17 all damages, together with reasonable charges for keeping
 18 and feeding the animal, are paid. The person who takes the
 19 animal into his possession shall, within ~~72~~ 24 hours after
 20 he takes possession, give written notice to the owner or
 21 person in charge of the animal, stating that he has taken
 22 the animal. The notice shall also give the date of the
 23 taking, the description of the animal taken, including marks
 24 and brands, if any, the amount of damages claimed, the
 25 charge per head per day for caring for and feeding the

1 animal, and the description, either by legal subdivisions or
 2 other general description, of the location of the premises
 3 on which the animal is held. In all cases a copy of the
 4 notice shall also be posted at a point where the animal was
 5 taken.

6 (2) The notice shall be given to the owner or person
 7 in charge only when the owner or person in charge of the
 8 animal is known to the person taking the animal and resides
 9 within 25 miles of the premises on which the animal was
 10 taken. If the owner or person in charge of the animal
 11 resides more than 25 miles from the place of the taking, the
 12 notice shall be mailed to him. In this case or if the owner
 13 is unknown, a similar notice shall be mailed to the
 14 department of livestock and the sheriff of the county in
 15 which the animal has been taken. On receipt of the notice,
 16 the sheriff shall post a copy of the notice at the
 17 courthouse and shall send by certified mail a copy of it to
 18 the owner of the stock, if known to him. If unknown to him,
 19 the sheriff shall send a copy of the notice to the nearest
 20 state livestock inspector.

21 (3) If the parties within 5 days thereafter do not
 22 agree to the amount of damages, the claimant must within 10
 23 days thereafter institute a civil action to collect his
 24 claim in a court of competent jurisdiction. Pending the
 25 outcome of the suit, the person taking the stock may, at the

-2- INTRODUCED BILL

H.B. 127

1-21-83

delete

(add) I delete a req. that
 notice be posted
 where the animal was
 taken;

1 expense of the owner, retain a sufficient number of animals
2 to cover the amount of damages claimed by him. The defendant
3 may, after the institution of the action, on filing a bond
4 executed by two or more sureties and approved by the court
5 in double the sum sued for, conditioned upon the payment to
6 the plaintiff of all sums, including costs that may be
7 recovered by the plaintiff, have all livestock returned to
8 him. The claimant is liable to the owner for any loss or
9 injury to the stock occurring through his fault or neglect.
10 If the claimant fails to recover in the action a sum equal
11 to that offered him by the owner of the stock, the claimant
12 bears the expense of keeping and feeding the stock while in
13 his possession.

14 (4) A person who takes or rescues an animal from the
15 possession of the person taking the animal, without his
16 consent, is guilty of a misdemeanor and shall be fined not
17 less than \$100 or more than \$500."

-End-

pick up the expenses and they feel the person who brings in the stray should be responsible. When strays are brought in and the Department has to hold them, the Department is stuck. The law is not clear regarding who pays the fee.

Senator Galt pointed out that the bill says "shall be paid out of sales of strays." If cattle are brought to town and they are not sold between the time your neighbor is contacted and the next sale, who pays the fees until that time? That is not spelled out. He asked where the Department was assessing the fellow who brings in the stray.

Mr. Graham answered that they will have to determine that. This just spells out what can be charged for this.

Senator Kolstad asked if the Department had to buy them for what they are worth. Mr. Graham answered that they usually have to buy them for more than they are worth.

Senator Galt asked about the market bonds. Mr. Graham told him there is a duplication of bonds between state and federal. This refers to the market bonds, not the dealer bonds.

In referring to the Department's amendments, Mr. Graham replied that they would bring consistency all the way through the bill where fees were concerned.

In closing, Senator Jacobson referred committee members to the Statement of Intent where it says fees shall not be set so high as to generate revenue in excess of expenses. She did not agree with Mr. Teigen's ammendment regarding the consumer and felt a non-related member should be on all boards. She said Senator Himsl's SB 137 does away with sunseting the boards.

Hearing closed on SB 259.

HOUSE BILL 127: Representative Neuman was not present. Representative Dean Switzer, HD 54, explained the bill shortens the time required when taking possession of an animal and time the animal is picked up to 24 hours. He felt that might fall into place rather well with things now being discussed regarding stray animals and hauling them to town, etc. The language on lines 5 and 6, page 2 were struck because it would indicate that, when the animal was picked up, you might have to drive a stake where you picked it up.

Les Graham, Department of Livestock said this is part of the overall stray problem and only refers to livestock intended to be impounded and assesses civil expenses. It is a civil, not a criminal matter.

Hearing colsed on HB 127.

Amendments for SB 296 were presented to the committee by

Senator Conover. Exhibit #13.

Senator Kolstad questioned amendment 7 where the only thing taken out is the restriction on uses of land.

Senator Galt asked if they wanted the loophole in there.

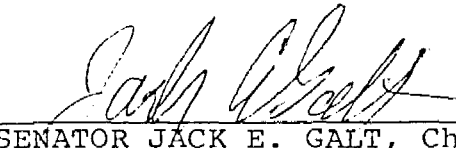
Senator Graham questioned the insurance loans. Senator Conover referred members to the article, "Why Insurance Companies Are Buying Farmland" in "Successful Farming", January 1983 issue, page 22. Exhibit #14.

DISPOSITION OF HB 113: Senator Aklestad moved HB 113 BE CON-
CURRED IN. Motion carried. Senator Aklestad will carry the bill on the floor.

DISPOSITION OF HB 127: Senator Aklestad moved HB 127 BE CON-
CURRED IN. Motion carried. Senator Lane will carry the bill on the floor.

Senator Aklestad had some information regarding the Wheat Research and Marketing bill. The state ASC office is evaluating some of their procedures and would like to have the committee write a letter removing the checkoff per busher at the time the CCC loan is received. They requested a committee letter of approval. Senator Galt appointed Senator Aklestad to draft the letter and present it for committee approval.

There being no further business, the meeting adjourned.



SENATOR JACK E. GALT, Chairman

DATE 2-7-83

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

STANDING COMMITTEE REPORT

February 7, 1983

MR. PRESIDENT

We, your committee on AGRICULTURE, LIVESTOCK AND IRRIGATION

having had under consideration HOUSE Bill No. 127

Neuman (Lane)

Respectfully report as follows: That HOUSE Bill No. 127
third reading (blue),

BE CONCURRED IN

XXXXXX